

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SYED ABU TAHIR,  
Plaintiff,

v.

NANCY A. BERRYHILL,  
Defendant.

Case No. [18-cv-03675-HSG](#)

**ORDER DECLINING TO ADOPT  
MAGISTRATE JUDGE'S REPORT  
AND RECOMMENDATION  
REGARDING DISMISSAL**

Re: Dkt. No. 7

The Court has reviewed the Report and Recommendation Re Dismissal, Dkt. No. 7, as well as Plaintiff's objection to the report, Dkt. No. 9. The Court finds that Plaintiff has met the pleading requirements and that the complaint should be served on the Defendant.

The Court must screen every civil action brought in forma pauperis under 28 U.S.C. 1915(a), and dismiss any case that is "frivolous or malicious," "fails to state a claim on which relief may be granted," or "seeks monetary relief against a defendant who is immune from relief." 28 U.S.C. § 1915(e)(2)(B); *see Calhoun v. Stahl*, 254 F.3d 845, 845 (9th Cir. 2001); *Lopez v. Smith*, 203 F.3d 1122, 1126–27 (9th Cir. 2000) (en banc) (noting that 28 U.S.C. § 1915(e) "not only permits but requires a district court to dismiss an in forma pauperis complaint that fails to state a claim"). To state a claim on which relief may be granted, a plaintiff must plead "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). A claim is facially plausible when a plaintiff pleads "factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

The Magistrate Judge found that Plaintiff's initial complaint failed to state a claim upon which relief can be granted. *See* Dkt. No. 5 at 3. But Plaintiff fully completed the form for judicial review of decisions of the Commissioner of Social Security provided on the Court's


1 website. *See* Complaint, Dkt. No. 1. The Court finds that Plaintiff's initial complaint established  
2 a facially plausible claim and was sufficient to meet the screening requirement.

3 The Court advises Mr. Tahir that the Legal Help Center at both the San Francisco and  
4 Oakland Federal Courthouses provides free information and limited-scope legal advice to pro se  
5 litigants in civil cases. Services are provided by appointment only. An appointment may be  
6 scheduled by either: (1) signing up in the appointment book located outside the door of the Legal  
7 Help Center in San Francisco or Oakland, or (2) calling (415) 782-8982. The Court strongly  
8 encourages Plaintiff to take advantage of this resource.

9 The complaint having been found sufficient under 28 U.S.C. § 1915, it is **ORDERED** that  
10 the Clerk issue summons, and it is further **ORDERED** that the U.S. Marshal for the Northern  
11 District of California serve, without prepayment of fees, a copy of the complaint, any  
12 amendments, attachments, scheduling orders and other documents specified by the Clerk, and this  
13 order upon the defendant.

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15 **IT IS SO ORDERED.**

16 Dated: 10/29/2018

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19 HAYWOOD S. GILLIAM, JR.  
United States District Judge